



**INDIANAPOLIS-MARION COUNTY COUNCIL  
TAX INCREMENT FINANCING STUDY COMMISSION**

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**DRAFT FINAL REPORT – EXECUTIVE  
SUMMARY**

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**June 18, 2012**

## Executive Summary

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Indianapolis Public Library

## Executive Summary

The Indianapolis-Marion County Council Tax Increment Financing Study Commission was established by City-County Council Resolution 36, 2012.<sup>1</sup> Its charge was to examine Economic Development policies and procedures related to the use of Tax Increment Financing (TIF) in Marion County; to hold public hearings and take public input; and to report to the Council, findings and recommendations for improvement.

The Commission members include 3 City-County Councillors, the City Controller, the Director of the Indianapolis Bond Bank, the County Auditor, the Chair of the Metropolitan Development Commission and a member of the Indiana General Assembly. Over the course of 8 meetings and more than 18 hours of discussion, presentation and public testimony, the commission members explored the 10 objectives charged in the enacting ordinance, which included:

- 1) Policies and past practices used in Marion County for the establishment of TIF districts and projects therein;
- 2) Policies and past practices used in Marion County for the expenditure of TIF district funds and the issuance of debt backed by TIF district funds;
- 3) Current Marion County TIF districts and associated fund balances, debt obligations and past expenditures;
- 4) Need for new methods to increase transparency of Marion County TIF districts' funds and the expenditure of those funds, including the establishment of an online database of TIF districts' funds and expenditures and periodic reporting of TIF districts' financial data to the Indianapolis City Controller, Marion County Auditor, the Indianapolis-Marion County Council and taxing districts impacted by TIF;
- 5) Need for new methods to increase accountability, including the establishment of new performance standards in the establishment of TIF districts to ensure targeting of TIF districts to revitalize blighted areas of Marion County and job creation;
- 6) Need for performance goals for private development that receives TIF and methods to provide consequences for the failure to achieve those goals.
- 7) Need for a comprehensive Economic Development plan to ensure the creation and development of TIF districts and projects therein in a coordinated fashion consistent with Economic Development goals of job creation and community revitalization;
- 8) Need for periodic review of established TIF districts and projects therein to ensure performance towards Economic Development goals;
- 9) Impact of TIF districts on Marion County taxing districts that depend on property tax revenue and the need to mitigate negative impact to those taxing districts, including development of standards and methods to return excess TIF district funds to those units; and
- 10) Need to establish methods to dismantle TIF districts that are no longer needed and/or address projects therein that are not achieving economic development goals.

## Executive Summary

This executive summary encompasses highlights of presentations, documents and data that the Commission received. The full report will provide more detailed discussion of the factors that support the Commission's recommendations, which are summarized in this Executive Summary. The recommendations fall into four broad categories:

1. Clearly define the management and decision-making process for using Tax Increment Financing.
2. Establish transparent financial practices, accounting, reporting and monitoring
3. By March 1, 2013, develop a strategy to analyze the segments of the Comprehensive Plan, including Neighborhood Plans, to determine areas that need redevelopment or economic improvement. The strategy should identify resources, time-lines, and budgets necessary to develop a county-wide Comprehensive Plan segment for creation of future redevelopment and economic improvement areas.
4. Request changes to policies or requirements of state law.

Detailed recommendations for each of the categories follow this summary of report information.

### Tax Increment Financing – Introductory Information

Tax Increment Financing (TIF) is an Economic Development<sup>2</sup> tool used to encourage investment and development within a specified geographical location. A "tax increment" is the difference between the amount of property tax revenue generated before TIF District designation and the amount of property tax revenue generated after TIF District designation. It is used to pay debt that is borrowed on the expected increment or to directly fund the projects and activities used in redevelopment or economic development projects within the TIF District.

### History and Background

TIF was introduced in the 1950s in California and has been implemented in the District of Columbia and every state except Arizona. The use of TIF in Indiana began in the mid 1980s, in South Bend, Fort Wayne and Indianapolis. By 2002, it was widely used across the state; currently 58 counties have TIF Districts.

The initial use of TIF Districts was for redevelopment to address blight, deterioration and abandoned, difficult to develop regions in urban areas. Over time, the use has expanded to include economic development areas (EDAs), which include objectives such as job creation and expanding or retaining business.

TIF is widely used to fund infrastructure (roads, bridges, sidewalks and sewers, for example) and to provide gap funding for private developers in Economic Development deals.

### Enabling Statute for Marion County

Indiana Code (IC) 36-7-15.1-3 establishes the Metropolitan Development Commission (MDC) as the redevelopment commission of the consolidated city of Indianapolis. Three of the excluded cities in Marion County have elected to establish their own redevelopment commissions and are governed by a separate statute (IC 36-7-14). The TIF Study Commission's focus and recommendations are directed toward the TIF policy and practices of the MDC.

As the Consolidated City's redevelopment authority, the MDC may establish or expand a Redevelopment Area (RDA) or Economic Development Area (EDA) as an allocation area for the purpose of capturing incremental tax revenue. This action is subject to City-County Council approval. Usually, allocation areas capture only the increases in the assessed values (AV) of real property; however, in certain instances,

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<sup>2</sup> For the purposes of this report, the term Economic Development, when spelled with initial capital letters, refers to the sustained, concerted actions of [policymakers](#) and [communities](#) that promote the [standard of living](#) and [economic health](#) of a specific area. When used with lower case or attached to the word area, economic development will refer to the type of tax increment financing project, as distinguished from a redevelopment area or project.

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personal property can also be included in the increment. The MDC issues TIF revenue bonds, also subject to Council approval, to finance projects.

## Permitted Uses of TIF Revenue

Generally, TIF revenues may be used for Economic Development purposes within the TIF District. It may *not* be used for the MDC's operating expenses. Eligible uses include capital project expenditures in the TIF district or elsewhere if the expenditure benefits the TIF, contracting for loan or grant projects through neighborhood development corporations; infrastructure, land acquisition, remediation, clearing and improvement for projects; reimbursements to the City-County for public improvements in or benefitting the TIF district; and workforce training programs.

## Strengths and Weaknesses of TIF

TIF is a locally administered program and relatively autonomous from state and local intervention. It is a politically uncomplicated way to establish a dedicated funding stream for a project. Tax increment financing provides a dedicated funding source and catalyst for Economic Development projects.

On the other hand, TIF removes local elected officials from the decision making about use of public funds (authority is granted to the redevelopment authority, comprised of appointed officials); TIF makes a long term commitment of tax revenues and can be negatively affected by changes in tax laws and the economy.

## Current Landscape: The Problem Statement

Since 1983, Marion County has used TIF to facilitate community redevelopment, downtown revitalization, and Economic Development. However, several changes in the policy, tax and fiscal landscape warrant a review of TIF policy and practices.

**Changes in Tax Structure:** The implementation of property tax caps (circuit breaker) and state takeover of several local levies constricts the property tax revenue flow and makes the base and incremental property tax collections interdependent.

**Local Government Funding Crisis:** Since 2008, local government units in Marion County have collectively lost more than \$366 million in property tax revenue due to circuit breaker tax caps. County Option Income Tax (COIT) revenue has declined by \$85 million from its peak.

**Lack of Fiscal and Performance Transparency:** Information and data about the revenue, debt, reserve funds, and expenditures of TIF Districts is incomplete and difficult to obtain. There is no consistent mechanism for monitoring the impact, performance, or return on investment of TIF projects against stated objectives. Until 2012, there were no mandatory reporting requirements about TIF activity and transactions.

**Managing Excess Property Tax Revenue in TIF Districts:** Districts are allowed to accumulate incremental revenue beyond the requirements of debt service to fund pay-as-you-go development projects or remain as unreserved balance. There is no required reporting or capital spending planning. As such there is a great deal of latitude in the ways the excess revenue can be spent. The ability to spend is not subject to review or approval of the Council.

**Declining Funding for Infrastructure:** Public infrastructure is the responsibility of the Department of Public Works (DPW). DPW primarily funds construction and repairs of infrastructure with state gas receipts, which are declining due to increases in vehicle fuel efficiency without a corresponding adjustment of the gas tax rate. There is a need for countywide coordination of infrastructure planning.

**Absence of County-Wide Coordination on Economic Development and Infrastructure Planning:** The Department of Metropolitan Development's comprehensive plan was initiated in 2000 – 2006. Plan segments are constantly under review and revision. However, there is concern about a lack of resources to implement a comprehensive planning process that includes coordinate planning, policy and implementation in a holistic manner that goes beyond reactive efforts.

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## Cost of Funds:

TIF has a higher cost of funds than general obligation bonds, given the higher interest rate and the need for reserve funds, which effectively increases interest rate since funds are not used until the end of the bond term (15-20 years).

## Stakeholders

The stakeholders who must be considered in a policy review of TIF districts include county residents and property owners, the base taxing units, private businesses and investors, the City-County government, Community Development Organizations, and the citizens of Marion County.

## Citizens of the City-County

The tax rates that property owners pay as residents of various taxing units are influenced by the tax increment captured by the TIF districts. The release of the tax increment could result in lowering tax rates for some taxpayers. On the other hand, citizens benefit from increasing property values, which can spur quality of life and make the area more attractive to new residents, whose presence can help lower tax rates.

## Base Taxing Units, including City-County Government

Government units and public schools that receive funding from property taxes are affected by changes in TIF policy. For the base taxing units, TIF districts represent a trade-off between foregoing property tax revenue in the near-term in exchange for increased revenue from the higher assessment value of TIF districts in the long-term. Elected officials and selected City-County departments are responsible for TIF policy formation and administration. The officials and departments play various roles in the creation and management of TIF districts

## Businesses and the Private Sector

Private developers and contractors collaborate with the MDC and the DMD on TIF projects to ensure that the project is eligible and has appropriate financing. The involvement of businesses and investors is critical for the success of a TIF district. Businesses often look to government for public subsidies that reduce the cost or increase the return on investment in redevelopment or economic development projects. TIF policies and practices must be balanced to ensure that they do not create the perception of TIF as an entitlement in Economic Development deals.

## Community Development Organizations

When active, Community Development Organizations help organize community planning; mobilize support for or opposition to Economic Development; act as liaisons between the City-County and their communities; and often view TIF as a critical part of the solution to address community needs.

## The Life Cycle of a TIF District

The TIF has a 5-phase life cycle

1. **Initiation** includes a feasibility study, review of established needs, economic benefits, financial feasibility, and area eligibility. The TIF District's relationship to, or impact on, the Marion County Comprehensive Plan must be considered, as well as the availability of public-private partnership opportunities. The "But For" test, is applied to determine if the project would occur without funding by TIF. A gap funding analysis is done, to determine if public funds are needed to fill a "gap" in the return for potential investors or to pay for infrastructure in the project area.
2. **Formulation** includes identifying the geographic areas for the allocation area of the TIF district, obtaining approvals of the MDC and City-County Council. During this step, the length of the project is established
3. **Adoption** occurs in three stages, which include communication among members, the affected public, the Metropolitan Development Commission (MDC) and the City-County Council. During this phase public disclosure is achieved by holding public forums, and the allocation area and project financing are approved by the MDC and the Council
4. **Implementation** includes managing the projects (obtaining land, preparing the site, construction and post construction management) and managing the project finances (issuing bonds, authorizing

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receipts and disbursements of increment, ensuring appropriate levels of reserves and debt service coverage, and determining how much AV will be passed to the base taxing units each year)."

5. **Termination** involves dissolving the TIF district when all debts are repaid and there are no other planned uses for incremental tax revenue. When the TIF district is terminated all AV flows to the base taxing unit.

### Marion County Policies on TIF Establishment and Strategy<sup>3</sup>:

The life-cycle steps create the framework for establishing TIF districts; however, overall policy on TIF use is determined by the Mayor's Economic Development initiatives, management in the Department of Metropolitan Development (DMD), and the authority and oversight of the Metropolitan Development Commission (MDC). The Office of the Mayor and the DMD make policy decisions regarding the establishment of the TIF districts, use of incentives, and current TIF policies and practices.

The City's current internal policy on TIF includes the following goals:

- Districts should support neighborhood goals and/or quality-of-life plans
- Should connect future redevelopment sites and identify "catalyst projects" within the district
- Corridor-focused – sets the stage for future transit improvements and transit-oriented development
- Should promote connectivity: connecting neighborhoods to anchor institutions (employers, universities), parks, and commercial districts

TIF-supported development projects generally fall into two separate categories:

- City-owned property. The City owns the land and therefore must issue an RFP; developers are selected through a competitive procurement. The City may recommend a TIF incentive to overcome obstacles to development (environmental issues, etc.).
- Community-driven projects. A community organization (CDC, etc.) or anchor institution partners with a developer and requests City support to fund infrastructure. The partners typically request a TIF incentive and negotiate with the City if the project meets the City's criteria

Not every project that is eligible for TIF incentives will receive consideration by the City. In making this determination, the City's policy is to ask the following questions:

- Is the project supported by the neighborhood?
- Is the project supported by the local anchor institutions (employers, hospitals, universities)?
- Does the project pass the "but for" test?
- Is the project consistent with the community's quality-of-life or similar plan?
- Does the project generate more than enough increment to support the requested TIF incentive

### Options to Tax Increment Financing

While TIFs can be a powerful Economic Development tool, it is also important to consider other available tools. Some of these tools are complementary to TIF and, when applied appropriately, can increase its development power by spurring private investment. In some cases, however, other Economic Development tools may be more appropriate for development projects, depending on factors such as the size and scale of the project, the intended beneficiaries, and the level of flexibility required. Examples of alternate and complementary economic development tools include:

- General Obligation Bonds
- Economic Development Revenue Bonds
- Midwestern Disaster Area Bonds
- Industrial Development Bonds

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- Economic Improvement Districts
- Property Tax Abatement
- Cumulative Capital Development Fund
- Certified Technology Parks
- Community Revitalization Enhancement Districts
- Local Option Income Taxes

There are a number of other tools and programs available for redevelopment and economic development projects. For example, at the City-County level, other taxes can be levied, such as Food & Beverage, Innkeepers, or Wheel and Surtax. The City- County could authorize the New Employee Income Tax, which would give hiring incentives to companies from new employees' wages.<sup>4</sup> Additionally, there are a number of programs and grants at the state and federal levels which may prove useful. For example, the New Market Tax Credit Program (NMTC) is a federal program that uses federal tax credits to encourage new or increased capital investment in low-income communities.<sup>5</sup> Another example is the Environmental Protection Agency's Brownfield Redevelopment program, which provides tax incentives and grants to encourage remediation and development of brownfield sites.<sup>6</sup>

### Fiscal Analysis of Tax Increment Financing

This section includes discussion of key concepts related to fiscal analysis of tax increment financing in Marion County. The Marion County Auditor is the source for information pertaining to assessed value, property tax revenue, and circuit breaker credit. A significant portion of the document is focused on describing the effects of TIF policy issues such as TIF neutralization, the circuit breaker credit, and TIF pass-through decisions. While much of this analysis uses actual data, where hypothetical decisions are tested, Policy Analytics' parcel-level Local Government Revenue model is used to simulate the effects these decisions. The information provided by Policy Analytics is intended to serve as a framework for evaluating TIF policy options, and does not represent an endorsement or recommendation of any specific policy option.

### TIF Neutralization

TIF neutralization is a legally required process that is intended to neutralize the effect of external factors on the base and increment. This adjustment is required annually in accordance with Chapter 50 of Indiana Administrative Code 8-2-12. TIF neutralization results in either an increase or a decrease in base assessed value, depending on a number of factors. In recent years, the TIF neutralization process has resulted in a decrease in base AV (base depletion) for some TIF districts. The major causes of base depletion in the neutralization process are described below:

1. **Elimination of levies and tax rates due to the State assuming School General and County Welfare levies** The reduced tax rate meant that a given level of incremental AV generated less revenue in 2009 than in 2008. As a result, to maintain a consistent level of revenue and to protect bondholders, the TIF neutralization process requires that a portion of base AV to be moved into the increment.
2. **Introduction of the supplemental standard deduction reduced net assessed values in housing TIF's.**
3. **The economic downturn had a sustained, negative impact on assessed valuation (both county-wide and within TIF districts).**
4. **Protection for property tax appeals**

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<sup>4</sup> HEA 1007, IC 6-3.5-9

<sup>5</sup>Community Development Financial Institutions Fund. New Market Tax Credit Program. United States Department of the Treasury. Accessed June 14, 2012. [http://www.cdfifund.gov/what\\_we\\_do/programs\\_id.asp?programID=5](http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5)

<sup>6</sup> For more information, see: [http://www.epa.gov/brownfields/grant\\_info/index.htm](http://www.epa.gov/brownfields/grant_info/index.htm)



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## **Marion County Property Tax Revenue**

When assessing the financial implications of TIF policy, it is important to start from the broader context of the Marion County property tax environment. Property taxes are the largest source of revenue for Indiana local government units (other than schools). In the 2012 tax year, Marion County levied more than \$933 million in property taxes (net of circuit breaker). Approximately 89% of Marion County property tax revenues flow to local taxing units. About 52% of non-increment property taxes are allocated to Indianapolis-related taxing units. Indianapolis city functions will receive \$318 M in 2012, and the Indianapolis-Marion County Library, Health and Hospital Corporation, and IndyGo will receive a combined \$80M. The remaining non-increment property tax revenue is distributed to school corporations, townships and excluded cities.

TIF incremental revenue accounts for approximately 11% of the property taxes billed in Marion County. The Indianapolis Consolidated Allocation area receives the largest share of incremental revenue in 2012 - \$63M, or 64% of the total. The Airport TIF receives 15% of increment revenue, and the other Indianapolis TIF districts share 13%. TIF areas in the excluded cities – Lawrence, Beech Grove and Speedway receive 8% of increment revenue.

## **Circuit Breaker Credit Overview**

In 2008, the Indiana General Assembly enacted a series of property tax reforms in House Enrolled Act (HEA) 1001-2008 that have significantly altered the landscape of local government finance generally, and tax increment finance specifically. One of the property tax reforms was the institution of parcel level, rate based property tax controls that became known as the “Circuit Breaker Credit.” Once fully established, the circuit breaker limited property taxes to 1% of homestead property assessed value, 2% of rental, residential and agricultural land AV, and 3% of AV for all other property taxes. While the circuit breaker credit made property tax obligations much more predictable for taxpayers, it introduced a high degree of uncertainty into local government budgeting.

The introduction of the circuit breaker credit changed the dominant system of property tax control from levy controls to rate controls. Under the circuit breaker credit, property tax revenues are capped at a certain rate, or percent of assessed value. With circuit breakers, the rate is controlled and the property tax levy adjusts to the amount of revenue that can be produced by a unit’s tax base. In the post-circuit breaker environment, once all parcels reach the circuit breaker, property tax revenue growth only occurs through growth in the tax base (increase in the market value of the property). In 2012, the circuit breaker amounted to \$111M, or 12% of total property tax revenue. The circuit breaker credit affects both property tax revenue to units, and TIF increment revenue. Approximately 7% of the total circuit breaker loss is absorbed by the TIF increment.

## **Circuit Breaker Credit and Tax Increment Financing**

The introduction of the circuit breaker credit has fundamentally altered the fiscal implications of tax increment financing, and has necessitated changes in how decision makers approach TIF policy. Before circuit breaker credits were in effect, TIF capture did not largely impact a base unit’s property tax revenues. If TIF districts captured more assessed value, tax rates adjusted and taxing units did not experience a revenue shortfall. With circuit breakers in effect, an increase in tax rate does not produce a corresponding increase in revenue, and the capture of TIF AV can have negative fiscal implications for taxing units. The table below summarizes the implications of tax increment financing in the pre-circuit breaker and post-circuit breaker environments.

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Impact of Circuit Breaker Credit <i>On the relationship between TIF districts and taxing units</i>	
Pre-Circuit Breaker Credit	Post-Circuit Breaker Credit
<ul style="list-style-type: none"> <li>• Taxing unit property tax revenue determined by <u>levy</u> controls.</li> <li>• Maximum levy growth determined by change in Indiana personal income.</li> <li>• Revenue growth is virtually guaranteed – tax rates adjust to generate revenue necessary to fund levies.</li> <li>• TIF activity does not largely impact property tax revenue for other taxing units.</li> </ul>	<ul style="list-style-type: none"> <li>• Taxing unit property tax revenue determined by <u>rate</u> controls.</li> <li>• Levy controlled funds act more like rate controlled funds. Homesteads limited at 1%, other residential at 2%, all other property at 3%.</li> <li>• Once all parcels reach circuit breaker, revenue growth only occurs through growth in the tax base.</li> <li>• TIF activity can have negative revenue implications through higher circuit breaker losses<sup>1</sup>.</li> </ul>
<sup>1</sup> This occurs because only base AV is used to set property tax rates, and TIF capture results in a smaller tax base, higher tax rates, and therefore greater circuit breaker losses	

### TIF Increment Pass-Through Decisions

The primary mechanism available to local governments to manage the relationship between TIF increment and TIF base is the annual TIF pass-through decision. In this decision, the redevelopment commission determines the amount, if any, of excess incremental revenue that should be returned to the TIF base. In 2012, Indianapolis TIF increment was passed through to the base in eight TIF districts. Four of these TIF districts are dormant, and have been inactive since 2006. For the other four TIF districts, 2012 is the first year of increment pass through

### Fiscal Impact of TIF Pass Through

One result of passing AV from the increment to the base is an increase in revenue to local taxing units. Passing AV assessed value to the base reduces the property tax rate, and reduces the circuit breaker impact to taxing units. However, the relationship between circuit breaker relief and increment pass-through is non-linear, and decreases as more AV is released to the base. For example, in Marion County, when \$100M of AV is passed through, \$3.2M in increment revenue translates to \$2.0M in additional property tax revenue to units (63%). If all TIF increment is passed through, \$99M in increment revenue would translate to \$43M in additional property tax revenue to units (43%). The effectiveness of TIF pass through generating new revenue decreases as the impact of the circuit breaker credit is mitigated.

### Geographic Location of AV Growth

One of the key realities of post-circuit breaker fiscal policy is that especially for urban areas that are significantly impacted by the circuit breaker, property tax revenue growth is primarily driven by assessed value growth. This means that for a given unit's geography, capturing all of the assessed value growth within TIF districts, even if used for legitimate and prudent economic development and redevelopment purposes, will eventually choke off the property tax revenue growth needed to keep pace with the rising costs of providing public services. From 2006 to 2011, the properties within Indianapolis TIF districts grew at an average rate of 5.7% per year, while the AV in the non-TIF portions of the county remained flat.

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Prior to the introduction of the circuit breaker, this growth pattern would not have materially affected local government revenues, and taxing units would continue to receive the annual permissible levy growth. However, in the post-circuit breaker environment, if all AV growth is captured within TIF districts, the result will be a stunting of property tax revenue growth to units. This reinforces the need of an active strategy to manage the allocation of AV growth between the general tax base and the TIF increment.

## Financial Practices

Tax Increment Financing most often involves the issuance of public debt in the form of tax revenue bonds. This section will review standard industry guidelines for financial information and practices as well as the practices of the City of Indianapolis with regard to TIF debt issuance.

As previously mentioned, incremental tax revenue can be used to fund projects directly – pay-as-you-go, using the taxes collected on a one-to-one basis for projects in the TIF district. Alternatively the taxes can be leveraged by borrowing against the projected revenue stream that will flow from the increase in assessed value as the project improvements are realized.

## Underwriting and Credit Factors – Industry Standards for Bond Structure and Reserves<sup>7 8</sup>

An underwriter considers several factors in the determination of TIF revenue bonds structure and placement in the market. These include the structure of the bond, security features, legal considerations,

Factors that Influence Underwriting Considerations:

- Reserve levels
- Tax base growth or decline
- Vacancy rates
- Foreclosure and tax collections rate
- Downturn in commercial, industrial and residential development
- Amount of changes in debt level

**Legal considerations** in bond issuances include factors such as

- Ensuring the pledge of the security (the incremental property tax revenue)
- **Debt Service Coverage**, which measures the amount by which tax revenues exceed the annual debt service amount. The industry standard is 125% coverage
- Whether there are legal requirements to pass the entire increment to the development authority
- Frequency and success of property tax appeals

**Documents to consider as part of the financial and underwriting review:**

- Size and use of the property in the project area
- Five-year projected assessed valuation
- Project tax rates and underlying taxing industries
- The base year valuation
- Debt service schedule
- Ten largest taxpayers in the project area and the assessed value of the related property
- Tax collection rates
- Major pending assessment appeals
- Cumulative project area tax limit, if any
- Descriptor of tax sharing agreements with base tax units
- Expiration date of districts
- Additional bonds test and other legal covenants

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<sup>7</sup> See the [presentation by Whit Moloney, Piper Jaffrey](#) at the May 24, 2012 meeting of the TIF Commission. Underwriting standards presented from [Standard & Poor's Publication, "Special-Purpose Districts"](#) published June 14, 2007.

<sup>8</sup> See the [presentation by Angie Steeno, Crowe Horwath, LLP](#), at the May 24, 2012 meeting of the TIF Commission.

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- Bond indenture
- Consultant's Feasibility Report, if available

### Bond Structure – Maturity and Debt Service Coverage Ratio

TIF bonds are customarily long term bonds with a debt service ratio of 125%. This means that the annual tax revenue will be at least 125% of the annual debt service payments. Other bond features, such as bank placement or variable rate demand bonds, may be part of the structure, but would be an exception for TIF bonds.

#### Maturity

Since state laws require a TIF district to be terminated within 25 years after the issuance of debt, the maximum maturity of the bonds would be 25 years. The bonds could include a call provision, which allows the borrower to pay off the debt early without a penalty. A par call is usually 10 years; however, the issuance can include a shorter call provision of 5 – 7 years if, for example, projections indicate that tax revenue will be collected at a faster pace. An underwriter will advise the issuer to match the maturity of the debt with the useful life of the underlying assets. Since many TIF projects are for infrastructure, a long term debt matches the useful life of the underlying asset (streets, curbs, sidewalks and bridges).

**A Debt Service Reserve (DSR)** also is required to secure the bond payments and serves as a security feature. The amount of the DSR can be included in the borrowing as specified in the bond covenant and must be held for the life of the bond. The debt can be further secured by a moral obligation or other guarantee of the issuing municipality, a guarantee by the developer, or both. Revenue-supported debt, such as TIF and COIT, for example, commonly includes a DSR requirement as an additional source of security in case the underlying revenue stream is insufficient to meet debt obligations. A reduction of the amount of debt service reserves would result in a mandatory report (material event notice) to bondholders and would likely affect the issuer's credit rating and ability to issue debt in the future.

As mentioned, the industry standard for **Debt Service Coverage** ratio is 125%. However, other factors, discussed above, may determine the specific requirements for debt coverage of an issue.

The bonds issued are typically long term, fixed rated instruments, and include a provision to pay off the debt without penalty (**a call provision**). Bonds may have a call period that is sometimes 5 – 7 years depending on the rate at which incremental revenues are expected to be received, but the minimum call period is typically 10 years.

During the initial years of the project when improvements are being built, the incremental tax revenue may not flow immediately, so revenue projections typically allow two to three years before realizing the full revenue stream. For this reason, the debt issuance will include **capitalized interest** for the first two to three years. Since the bond issuance creates a long term commitment of the property tax revenue that will be used to pay it off, deals should be structured to ensure that the public benefits received from the deal are of similar duration.

The initial debt service reserve requirement can also be financed. The maximum amount that can be financed is determined by the **IRS Test**,

### Marion County TIF Financial Practices

#### Debt Service Reserves Policy

The current debt reserves level for Marion County TIF funds is based upon:

- The DSR as required by bond documents
- An Additional Reserve equal to 10% of the outstanding principal balance of the bonds.
- Stabilization Fund, also required by bond ordinance and designed to be used if revenues are insufficient or to the provider of applicable interest rate agreements.

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- Appeals reserve predicated upon the number of outstanding property tax appeals

**Debt Service Coverage** Marion County internal policy for coverage is 150% to allow for security and protection against the variables discussed above. While the current debt coverage is calculated at 150%, the appropriate coverage level may vary by project or TIF district and depends on variable factors such as the diversity of the taxpayer base or the industry in which the primary taxpayers operate.

### Current TIF Debt

In Indianapolis, eight TIF allocation areas have outstanding totaling \$844.8 million, with annual debt service of \$64.2 million in 2012. The projected 2012 tax revenue for those districts is \$89 million. The shortest bond maturity is 2013 and the longest maturity is 2038.<sup>9</sup> Legally, each TIF District is a separate entity, and the debt coverage or expenditures for each is dependent on the revenue generated within it. However, there are consolidated TIF funds, which include the pooled funding of two or more TIF Districts. In a consolidated TIF, the revenue or fund balance can be disbursed to pay obligations of any TIF district included in the consolidated area. A summary of debt for all Marion County TIF Districts, included those in excluded cities, is provided in the [Marion County TIF Summary Table](#) (see exhibit i). A summary of debt in Indianapolis TIF Districts is provided in the table below.

### Outstanding Debt – Indianapolis TIF Districts

Allocation Area	\$ O/S Debt (12/31/2011)	2012 Debt Service	2012 Tax Rev <sup>10</sup>	Years until last bond matures
Consolidated Allocation Area (Downtown)	677.0	41.1	63.4	26
Airport Economic Development Area	72.9	15.8	14.7	11
Harding Street RDA	38.7	3.9	5.9	12
Martindale-Brightwood Industrial RDA (Ertel)	5.0	-	0.5	1
86 <sup>th</sup> St EDA (Dow Elanco)	22.4	0.9	0.7	23
Glendale Allocation Area	4.9	0.5	0.8	15
Fall Creek Housing Area HOTIF	14.7	1.3	1.7	18
Barrington HOTIF	2.5	0.1	0.2	3
Near East HOTIF	6.7	0.7	1.1	13
<b>Indianapolis Total</b>	<b>844.8</b>	<b>64.2</b>	<b>89.0</b>	<b>26</b>

<sup>9</sup> Summary of county-wide TIF debt is provided in the [Marion County TIF Summary Table](#)

<sup>10</sup> Based on 2012 billed taxes. Final receipts could be less

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## Other Policy Considerations

### Options for Maximizing Use of TIF Proceeds and Evaluating the TIF Economic Development Investment Policy

In the current tax policy and economic environment, there is value in the maxim “doing more with less.” There is less property tax revenue flowing as a result of both the state takeover of school levies and the reduction of property taxes received as a result of the circuit breaker. Therefore, it is useful to consider ways to extend the reach of the incremental property taxes captured for Economic Development activity. Several recommendations were offered in the reports the Commission received from the Indiana Housing and Community Development Authority (IHCDA)<sup>11</sup> and the Indiana Association for Community Economic Development (IACED)<sup>12</sup>. Each will be discussed separately:

#### Potential Policy Solutions from IHCDA

- The City can leverage more of its TIF revenue by using all or part of it to create a revolving loan fund to complement or replace the grants to private industry developers. Whenever it is possible to, extend a loan instead of a grant to recycle increment funding
- Include deferred developer fees in structuring the underlying deals for TIF projects
- Disaggregate components of a packaged project to allow for the use of multiple Economic Development tools
- Perform a rigorous cost/benefit analysis in addition to the “But For” test
- Defer Developer Fees until the end, or even later in the project

#### Policy Considerations from IACED

- Expand the concept of Economic Development to Community Economic Development, to implement holistic, comprehensive and sustainable solutions to redevelopment and economic development.
- In the absence of state and federal funding programs, TIF is the most important local tool for community economic development. It can be improved to leverage a wide range of benefits beyond growth in property value
- The “But For” question can more easily be observed when used for the types of development that are regularly underserved by the market, including:
  - In blighted areas where infrastructure is outdated
  - For environmental remediation
  - For affordable housing near well-paying jobs
  - Deteriorating main street shopping centers

### Implications for Base Taxing Units

The Commission received presentations, testimony and interview information from staff and officials of base taxing units. A summary of the information is observations and potential policy considerations is provided below:

Base taxing units may experience an increase in demand on services with the creation or expansion of a TIF district, particularly if it includes residential development. There is a potential increased demand for educational services, transit, library services. Note that for IndyGo, there would only be an impact if existing service is used to capacity and significant increases in ridership can have the effect of increasing federal funding; however, this increase is averaged, so modest increases in ridership will have no effect

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<sup>11</sup> See [presentation by Mark Young](#), Indiana Housing and Community Development Authority at the May 17, 2012 TIF Study Commission meeting.

<sup>12</sup> See [presentation by Andy Fraizer](#), Indiana Association for Community Economic Development at the May 17, 2012 TIF Study Commission meeting.

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on increased funding. . Where there is existing capacity in existing service, an increase in demand would not create a stress on services.

If new development is in a TIF district, the demand may increase without a corresponding increase in property tax revenues, as they are captured for the TIF increment. The theory of a temporary, although long-term tradeoff is not realized in districts where the TIF does not have an expiration date.

Currently, state law requires that units receive an Economic and Tax Revenue Impact Statement 10 days prior to the MDC hearing at which the Confirmatory Resolution is considered. At this point the taxing units have missed the opportunity to give feedback and input during the initiation stage. The following are recommendations related to base taxing units.

- Implement earlier notification of base taxing units and community organizations that may be impacted by the creation or expansion of a TIF District. Currently, state law requires that units receive an Economic and Tax Revenue Impact Statement 10 days prior to the MDC hearing at which the Confirmatory Resolution is considered. At this point the taxing units have missed the opportunity to give feedback and input during the initiation stage.
- Include representatives of the local taxing units, such as schools, townships, public transportation and the library the TIF Project Team, to provide insight and feedback about potential effects and affinity of the program with the services they provide.
- Ensure that base taxing units receive additional tax revenue that is not used by TIF districts for established projects, capital projects plans or when a TIF district has completed its cycle, by using pass through, establishing an expiration date.

With the discussion about infrastructure and the ability to use TIF funds for infrastructure and potential uses of TIF funding for programs or capital projects of taxing units, the Library and IndyGo identified infrastructure activities that are eligible for use of TIF funds:

- TIF funds could be used for infrastructure related to libraries to the extent the projects are in a TIF area or directly serve or benefit a TIF area.
- Library computer training labs, job centers, language lab and computer classes, and digital learning labs
- IndyGo capital purchase for buses and equipment. IndyGo is currently using federal monies given for capital purchases, to fund operations. While this is allowable under federal rules, the use of that money for operational expenses precludes the ability to fund bus replacement. The IndyGo President recommended that the City consider look at the opportunity to use funds toward transit capital and infrastructure.

### Infrastructure

In light of the extensive use of TIF funds for infrastructure, the Commission received a briefing<sup>13</sup> from the Director of the Department of Public Works (DPW), which is primarily responsible for infrastructure in the city. If DPW does not directly manage infrastructure building in TIF-related projects, it is still responsible for ensuring that the projects meet local code and requirements. DPW has performed very little TIF funded projects although it has performed a significant amount of work in TIF district. DPW has used a total of \$16 million, most of it for infrastructure on Georgia Street, the United Northwest Area (UNWA) district and for the Dow Elanco TIF. The primary source of revenue for DPW is fuel tax, which is declining and therefore not a steady funding stream against which to borrow. DPW also provided a series of maps that detail the projects that were completed in existing TIF districts, not funded by TIF revenue.

### Lessons from Peer Cities

The Department of Metropolitan Development conducted a survey and research project about the TIF practices, procedures and lessons learned from eight peer cities<sup>14</sup>. The report also included nationwide

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<sup>13</sup> See [presentation by Lori Miser](#), Department of Public Works at the May 31, 2012 meeting of the TIF Commission

<sup>14</sup> See [presentation by Brooke Thomas](#), Department of Metropolitan Development at the April 12 meeting of the TIF Commission.

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trends and issues related to TIF, as compiled by the Council of Development Finance Agencies. Recent issues with TIF nationwide include the following:

- Determining how much of the taxes can be captured and by whom. Some states already exempt specific types of taxes from captures (for example school taxes)
- Relaxing eligibility and expanding uses (e.g., for affordable housing) to allow TIF to be used in instances other than extreme dilapidation
- Determining the best way to define TIF district boundaries
- Longer duration limits, particularly during the downturn in the economy.



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What follows are recommendations gleaned from the sense of the Commission members in response to the presentations and data presented at Commission meetings. The recommendations are not exhaustive, but representative of the thoughtful and informative exchange that has taken place during the Commission's deliberations. The ultimate objective is to provide constructive methods that improve the effectiveness of an important Economic Development tool and, because of recent changes in the property tax landscape, suggest ways to optimize the use of TIF revenue for Economic Development and to release excess AV, to the greatest extent possible to the base taxing units, to facilitate the provision of services they are responsible for providing.

The recommendations are as follows:

1. Clearly define the management and decision-making process for using Tax Increment Financing, specifically that:
  - a. Recognizes tax increment financing as a tactical, time-limited tool for economic development.
  - b. Uses tax increment financing in a limited capacity that is in concert with but does not displace the development and execution of a comprehensive countywide plan for Economic Development and public infrastructure maintenance.
  - c. Identifies targeted and narrowly tailored geographic allocation areas that provide a funding source for Economic Development activity and preserves the property tax dollars that would otherwise flow to base taxing units
  - d. Minimizes the duration of the TIF districts to the amount of time reasonably required to accomplish both the Economic Development goals of the project and to provide for the return of incremental assessed value to the base taxing units as soon as possible.
  - e. Focuses the use of tax increment financing for redevelopment projects and in redevelopment areas in the county. This includes projects or developments that address blight, abandoned and vacant properties, environmental remediation and other economic development projects that address other market failures.
  - f. Projects that are not redevelopment must face a higher level of scrutiny for approval and must be justified by specifically enumerated benefits that align with the comprehensive county plan, community development plans and the principles of Community Economic Development.<sup>15</sup>
  - g. The MDC contract with eligible entities for educational, work training and worker retraining programs to increase the skills and productive capacity of the local labor force; create a more competitive workforce to meet needs of existing, expanding and new businesses; and enable county residents to compete successfully for the jobs that will be created by the use of tax increment financing revenue.
  - h. Require the inclusion of local hiring goals in the declaratory resolution to promote local hiring, promote local employment and ensure that the City-County Council and the citizens of the City of Indianapolis are informed about employment opportunities and job creation resulting from TIF-funded activity.
  - i. Require the inclusion of minority and women-owned business enterprise participation goals in the declaratory resolution.

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<sup>15</sup> For a discussion of Community Economic Development, see [presentation by Andy Fraizer](#), Indiana Association for Community Economic Development, made at the May 17, 2012 meeting of the Commission.

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- j. Include claw back provisions in project agreements that are subject to effective oversight and ensure that non-performing projects are quickly remediated through the return of TIF funding when performance goals are not achieved.
  - k. The MDC implement, in addition to financial feasibility studies, the use of robust market and real estate feasibility studies to evaluate and choose TIF projects that, in the absence of evidence of interest by free market development to accomplish the same goals in the same geographic area, catalyze development and residential settlement within the county and that do not contribute to sprawl and movement of businesses and residents to surrounding counties.
  - l. The MDC engage a community development organization to administer a revolving loan fund, funded by TIF revenue, which allows for access to capital in markets where it may be more difficult for local and small businesses to obtain capital and allows the City to leverage additional use of TIF revenue.
  - m. Requires a cost/benefit analysis including discussion of the following as part of all TIF project applications
    - 1) Use of a project TIF as compared to a TIF District, which has a wider footprint.
    - 2) A description of how the project plan aligns with the county-wide comprehensive planning document
    - 3) A description of how the project plan aligns with the local/neighborhood planning document
    - 4) A market analysis of the existing, possible or likely future free market unsubsidized private development in the proposed geographic area.
    - 5) Analysis of recent changes in the assessed value in the geographic area of the proposed project.
  - n. Commission a study of the impact of TIF on local property values, holding all things constant. The analysis would address the question, “Does TIF promote growth in AV of areas surrounding the allocation area?” This study would provide additional insight to preliminary data that shows a 5.7% increase in TIF districts’ net assessed value (AV) annual growth rate as compared with 0% growth in the rest of the county.
  - o. Employ to the greatest extent possible the use of alternative or complementary economic development tools and infrastructure funding prior to the use of TIF.
  - p. Create a uniform TIF application, employing best practices. The TIF application will require the collection of all information needed to evaluate the proposed project and all data elements required for a TIF database, including a financial pro forma.<sup>16</sup> A list of the data and information to be collected in the application is provided in exhibit
  - q. Prohibit the inclusion of assessed value in the increment of a new allocation area if the parcels contain improvements that are already completed or in process when the Declaratory Resolution is passed.
2. Establish transparent financial practices, accounting, reporting and monitoring, specifically that: the MDC, in coordination with the Controller and Bond Bank:
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- a. Engage a third party review of all TIF financials and documentation to establish a uniform documentation, reporting, tracking and monitoring system and to document Marion County process and practices in a Marion County TIF Handbook; Create a uniform application that will be used to capture TIF information, preserve institutional memory and monitor project outcomes (number of jobs, for example) in comparison to agreed upon outcomes.
- b. Build a TIF database for the collection of consistent information which can be used in the evaluation and analysis of TIF transactions and data.
- c. Create and maintain a TIF web site which would be a repository of the TIF data and information made available to the public
- d. Establish semi-annual local reporting requirements in addition to the new requirements established by Senate Enrolled Act (SEA) 19-2012 to include a three-year capital spending plan for pay-as-you-go projects and other estimated spending for eligible uses of TIF funds. Include progress reports on the commitments and goals established with the TIF (number of housing units or jobs, for example). The mid-year report would be presented at a meeting of the MDC, during which the MDC will receive written and oral report from the Bond Bank Director and the City Controller at least 7 days prior to voting on the annual resolution sent to the Auditor which determines if there are excess funds in the TIF accounts that can be used in the upcoming budget.
- e. Establish accountability and remediation requirements for non-performing TIF districts and/or projects regarding goals established at the time that the project or district was established. Non-performing TIF projects and districts should be quickly addressed with progressive steps to reduce and minimize financial exposure from non-performing projects and districts, up to and including requiring the return of TIF funds from entities that receive TIF funds associated with and responsible for non-performing projects or districts.
- f. Expand Community and Base Taxing Unit Involvement in the TIF Process
  - 1) Issue earlier notification of base taxing units and community organizations that may be impacted by the creation or expansion of a TIF District. Currently, state law requires that units receive an Economic and Tax Revenue Impact Statement 10 days prior to the MDC hearing at which the Confirmatory Resolution is considered. At this point the taxing units have missed the opportunity to give feedback and input during the initiation stage.
  - 2) Expand the reporting requirements to local taxing units to provide clearer picture as to the impact of the establishment or expansion of a TIF district. This includes projecting foregone revenue for all taxing units.
  - 3) Include representatives of the local taxing units, such as schools, townships, public transportation and the library on the TIF Project Team, to provide insight and feedback about potential effects and affinity of the program with the services they provide.
- g. Implement Standard Financial and Credit Management Practices and Policies. The Commission recommends the following policies with regard to fund balances, debt reserves and annual Assessed Value pass-through
  - 1) Reserves and Fund Balance will be determined by establishing all reserves required by bond covenants, an allowance for property tax appeals and additional reserves equal to no more than ten percent (10%) of the outstanding principal amount of the bonds. Review outstanding appeals at least annually to adjust the appeals reserve amount.

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- 2) The MDC will pass-through AV in excess of the amount that will generate one hundred fifty percent (150%) of the of TIF revenues necessary (if applicable) to satisfy the annual bond debt service.

Unless justified by financial or economic events, the MDC will make all efforts to pass through all excess AV to the base taxing units.

Pay as you go capital expenditures and/or other eligible expenditures under the Redevelopment Statute identified by the Commission will be funded by the remaining unreserved fund balances after the reserves and pass through allowance determination methods described above are completed.

- h. Establish Sunset Dates for all TIFs. The Commission recommends the following with respect to TIF Districts that are dormant or have no mandatory expiration:
  - 1) Dormant TIF districts: In the absence of overwhelming justification otherwise, the Commission recommends the termination of all four dormant TIF districts.
  - 2) TIF Districts with no required sunset date: In the absence of overwhelming justification otherwise, the Commission recommends the establishment of termination dates based on the last maturity date of the related bonds
  - 3) TIF districts without outstanding debt and which are used on a pay-as-you-go basis: The Commission recommends that the DMC, in concert with appropriate community development organizations and in alignment with a comprehensive planning document, establish a capital spending plan and sunset date no longer than 20 years into the future.
3. Recognizing that the optimal use of TIF as an economic development tool is limited unless wider environmental circumstances are addressed, the Commission recommends that the MDC engage an audit of the existing comprehensive plan to determine how development has progressed since the most recent plan; and to establish a collaborative working group consisting of representatives of the Department of Metropolitan Development, Department of Public Works, Office of Finance and Management, urban planning experts, community and neighborhood development organizations, and others as appropriate to work with the auditor/facilitator to make and implement a plan to create a strong, broad and comprehensive county-wide planning document, as well as a regular and periodic method for keeping it current.
4. Request that the General Assembly change the law regarding the following:
  - a. Allow the establishment of TIFs that capture a specified percentage of the incremental revenue (in addition to current law which permits the pledge of less than 100% of the incremental revenue at the financing stage).
  - b. Require earlier notification of base taxing unites and community organizations that may be impacted by the creation of expansion of a TIF district.
  - c. Allow the capture of all or a part of local income taxes of non-resident employees in a TIF district to contribute to public services provided to the district. To avoid creating and incentive for establishing random TIF districts, this might be best considered in an economic development TIF that is employer specific.
  - d. Require Council approval for any transfer from a TIF account that exceeds \$1 million, unless it is a bond payment.

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- e. Refer any outstanding questions or issues from the Marion County TIF Commission deliberations to the Indiana General Assembly for review and research as part of the quadrennial fiscal analysis report on the Marion County Redevelopment Code.<sup>17</sup>

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1. <sup>17</sup> See **36-7-15.1-36.2**

**Quadrennial fiscal analysis; report**

Sec. 36.2. On a quadrennial basis, the general assembly shall provide for an evaluation of the provisions of this chapter, giving first priority to using the Indiana economic development corporation established under IC 5-28-3. The evaluation must be a fiscal analysis, including an assessment of the effectiveness of the provisions of this chapter to: (1) create new jobs; (2) increase income; and (3) increase the tax base; in the jurisdiction of the county. The fiscal analysis may also consider impacts on tax burdens borne by property owners. The fiscal analysis may also include a review of the practices and experiences of other states or political subdivisions with laws similar to the provisions of this chapter. The Indiana economic development corporation established under IC 5-28-3 or another person or entity designated by the general assembly shall submit a report on the evaluation to the governor, the president pro tempore of the senate, and the speaker of the house of representatives before December 1, 2007, and every fourth year thereafter. *As added by P.L.25-1995, SEC.91. Amended by P.L.4-2005, SEC.139.*